

IN THE COURT OF THE II-ADDL.CIVIL JUDGE & J.M.F.C, DAVANAGERE

Present: Mallikarjuna.
II-Addl.Civil Judge & J.M.F.C,
Davanagere.

Crl.Misc.611/2022

DATED THIS 18th DAY OF OCTOBER, 2022

Petitioner : Netravathi W/o late Chandrappa,
40 years, R/o 3rd Main, 6th Cross,
Vinobangar, Davanagere.

(By Sri BHM Advocate)

V/s

Respondent : The Registrar, Births and Deaths Officer, City
Corporation, P.B Road Davanagere.

(Exparte)

**ORDERS ON PETITION FILED UNDER SECTION 13(3) OF THE
REGISTRATION OF BIRTHS AND DEATHS ACT, 1969.**

The petitioner has filed the instant petition seeking directions to the respondent to enter her date of Birth and issue Birth certificate of her.

2. Brief facts of the case of the petitioner are that, the father name of petitioner is Nageshwara Rao and mother name is Gangubai and she stated to have borned on 04.06.1982 at the cause title address. By inadvertence the fact of her birth was not informed to the concerned authority. In order to get her Birth Certificate, the petitioner had submitted an application to the respondent, for which, the respondent issued a "Non-availability Certificate" on 25/07/2022. Now the Birth certificate is required to avail government facilities. Therefore, the petitioner has prayed

for directions to the respondent for issuance of Birth Certificate of him.

3. Despite of service of notice, the respondent has not chosen to appear in the matter and contest the claim of the petitioner. Hence, the respondent is placed Ex-parte in this case.

4. Petitioner examined himself as PW1 and document got marked as Ex.P1 to 3.

5. I have heard and perused the material on record.

6. Points that arise for consideration are:

1. Whether the petitioner is entitled for the relief claimed?
2. What order?

7. Findings on the above points are:

Point No.1: In the Affirmative,

Point No.2: As per the final order for the following:

∴ REASONS ∴

8. **Point No.1:** In order to prove the case, the petitioner got examined himself as PW1 and got marked non-availability certificate as Ex.P1, Notarized Copy of Adhaar card of the petitioner is marked as Ex.P2 and notarized copy of election ID of the petitioner is marked as Ex.P3. The Ex.P1 exhibited by the petitioner show that the date of Birth of petitioner is not registered with the respondent. Further the oral evidence given by the petitioner in his chief examination upon oath remained unchallenged. The Hon'ble High Court of Karnataka in a decision

reported in **2004 KCCR 2674**, has held that, the contents of the affidavit i.e., on oath should be considered as a higher probative value, in absence of contrary to the averments.

1.

9. On the other hand, as already stated above, the respondent has not chosen to contest the claim of the petitioner. The evidence of the petitioner has remained unchallenged. Therefore, based on the evidence available on record and statement on oath by the petitioner I do not find any grounds to decline the relief sought and if said relief is granted, it will not cause any prejudice to the respondent. Therefore, it is just and necessary to meet the ends of justice to allow this petition. Accordingly, In the circumstances, I answer Point No.1 is in the **AFFIRMATIVE**.

10. **Point No.2:** In view of the above findings, I proceed to pass the following:-

:- O R D E R :-

Present petition is hereby allowed.

Respondent is hereby directed to register the event of the date of Birth of the petitioner i.e., Netravathi D/o late Nageshwara Rao and Late Gangu Bai as 04/06/1982 at cause title address and issue Birth Certificate after collecting necessary charges.

(Dictated to the Stenographer directly on computer, after her transcription, corrected, signed and then pronounced by me in open Court this the **18th day of October, 2022**)

(Mallikarjuna)

II-Addl.Civil Judge & JMFC,
Davanagere.

-: A N N E X U R E :-

Witnesses examined for the petitioner:

PW.1 Netravathi

Documents exhibited by the Petitioner:

Ex.P1 Non availability certificate
Ex.P2 Notarized copy adhaar card
Ex.P3 Notarized copy election ID card

Witnesses examined for the Respondent:

-: Nil :-

Documents exhibited by the Respondent:

-: Nil :-

II-Addl.Civil Judge & JMFC,
Davanagere.

ORDER

Present petition is hereby allowed.

Respondent is hereby directed to register the event of the date of Birth of the petitioner i.e., Netravathi D/o late Nageshwara Rao and Late Gangu Bai as 04/06/1982 at cause title address and issue Birth Certificate after collecting necessary charges.

II-Addl.Civil Judge & JMFC,
Davanagere.